

Date: October 25, 2005

To: PAMagic Board Members

From: Joyce Frigm, Executive Director (R), Dan Ruzansky, Executive Director (D), House Intergovernmental Affairs Committee, and Michael King, Executive Director, Legislative Office for Research Liaison (LORL)

Re: PAMagic's views on the notion of an intergovernmental statewide governance mechanism for geospatial technology interoperability and data sharing.

Over the past few months, the staff of the House Intergovernmental Relations Committee, with the assistance of LORL, has been meeting with various stakeholders to determine their views concerning whether the Commonwealth should establish by statute an intergovernmental statewide governance mechanism (e.g. a council) for geospatial technology interoperability and data sharing. We would greatly appreciate learning more about how your organization feels such a mechanism should be structured and operate, and what powers it should have. We have listed below several questions on the structure and operation of a council that might help you formulate your judgments. As you requested in our meeting on October 13, we have attached explanatory material on the legislative process.

We are also writing to clarify some of the confusion that seems to exist regarding the sample bill that was presented at the Pennsylvania GIS Conference in Harrisburg on May 19. The "sample" or **discussion legislation** was an informal and unofficial effort to solicit comments from individual attendees on some of the important GIS-related issues identified during the 2003-2004 informational meetings on geospatial technology held by the Statewide Technology and Electronic Commerce Advisory Council to the Intergovernmental Relations Committee of the Pennsylvania House of Representatives. **The discussion legislation was a direct outgrowth of the specific provision of HR882 of 2004 that cited the need for a statewide "governance mechanism to develop policy and oversee strategic planning for geospatial technology interoperability and data sharing, including, but not limited to, PAMAP, that involves an equitable partnership among Federal agencies, State entities, including those not under the Governor's jurisdiction, and the Commonwealth's local governments and authorities."**

The **discussion legislation** offered the idea of an independent council, ("the Mapping and Geographic Information Services Council") as a governance mechanism. This choice was based upon research and assessments of arrangements in other states. It then addressed the basic questions that must be covered in any "real" legislation that would create an independent council as a governance mechanism and gave some illustrative answers.

The basic questions included:

- What should be the makeup of the council?
- How should council members be selected?
- How should council officers be selected and what should be their qualifications?
- How often should the council meet?
- What voting procedures should the council follow to make decisions?
- What authority should be granted to the council over what matters regarding what jurisdictions/levels of government and/or private sector entities?

- How should the council be staffed and what technical or policy advisory groups might it create?
- How should the council be funded (should an intergovernmental council get intergovernmental funding)?
- As a public entity independent of the governor, the legislature, the courts, the counties and the municipalities, to whom should the council be accountable regarding financial and personnel practices?

The answers given to these questions were intended to provoke discussion, disagreement and suggestions for change/improvement that would lead to “real” legislation acceptable to those involved. The **discussion legislation** was written with the assumption that no new state money would be available to fund the council. That assumption had several consequences. The **discussion legislation** had to rely on fee-, royalty- and fine- based funding; it had to create an independent council that was imbedded in an existing statutorily-authorized executive agency rather than creating a new, free-standing entity; and it had to staff the council with existing executive staff personnel acting in dual roles rather than hiring new staff. If new funds were available from more conventional sources, such a hybrid arrangement might not be chosen.

Several comments are in order concerning possible sources of confusion and concern about what was included and what was not included in the **discussion** legislation:

Without new funding, the **discussion legislation** sought to imbed the council in an existing, statutorily-authorized executive agency. This had several implications. First, the Bureau of Geospatial Technology (BGT) could not be chosen as the agency in which to imbed the council. The Bureau does not exist in law because it was created by an Executive Order of the Governor and placed in the Governor’s Office of Administration. Executive orders do not provide the permanence enjoyed by statutorily-authorized agencies.

The **discussion legislation** might have proposed creating the position of State Geospatial Technologies Director and establishing the Bureau of Geospatial Technologies by statute. In doing so, the legislature would be defining a component of the Governor’s Office by law. However, each Governor is afforded the flexibility to reorganize the Executive Office of the Governor as he or she wishes by means of executive order. As a practical matter, the legislature does not define in law how the Governor should organize the Governor’s Office.

Second, the **discussion legislation** needed to identify agencies that have been created by law that also have geospatial functions that are mandated in law. Candidates included the Department of State, PennDOT, the Historical and Museum Commission (for place names), and the Bureau of Topographic and Geologic Survey (TOPOGEO). TOPOGEO was chosen for illustrative purposes, in part because of the broad range of layers it deals with in its current PAMap activities. The discussion legislation outlined the conditions under which the bureau staff could be used for Council purposes. The Director of the Bureau of Topographic and Geologic Survey was designated in the legislation to serve concurrently as Bureau Director and Executive Director of the Council in the new capacity of “State Geographer.” That position title was created to distinguish whether the person was acting for the Bureau or for the Council.

Since the conference in May, the Intergovernmental Relations Committee of the House of Representatives has received a wide range of ideas, criticisms and suggestions from individuals in the GIS community concerning the **discussion legislation**. This detailed and varied input was precisely what was desired, and the broad range of ideas will be invaluable when actual drafting of legislation gets underway. In addition the committee staff and LORL have met with various stakeholder groups and organizations to hear their formal positions and comments. In these meetings, an effort has been made to solicit ideas about each of the issues summarized in the list of questions above to determine areas of agreement, and areas where discussion and accommodation are needed. We wish to offer PAMagic, as a stakeholder group, the opportunity to provide us with your position on each of these questions as well, should you wish to do so.